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In re Application of :
Sigel :
Application No. 10/786,715 : DECISION ON PETITION
Filed: February 24, 2004 : UNDER 37 CFR 1.181
Attorney Docket No. 3146W :
For: APPARATUS AND METHOD FOR
SCRUBBING NATURAL GAS

This is a decision on the petition under 37 CFR 1.181, filed May 1, 2008 (certificate of mailing date April 29, 2008), to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the Restriction Requirement, mailed October 9, 2007, which set forth an extendable one (1) month period for reply. The Office contended that this application became abandoned on November 10, 2007 for failure to reply. A Notice of Abandonment was mailed on April 18, 2008.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that an election was timely mailed on certificate of mailing date November 8, 2007 and received in the Office on November 13, 2007.

In support of this assertion, petitioner has provided a copy of applicant's response that contains a proper certificate of mailing bearing a November 8, 2007 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The

person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The "RESPONSE TO RESTRICTION REQUIREMENT" bears a proper certificate of mailing, dated November 8, 2007, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the attorney signing the certificate, Robert O. Blinn, had reasonable basis to expect that the correspondence would be mailed on November 8, 2007.

In addition, petitioner has submitted an itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing November 13, 2007 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a Response to Restriction Requirement. The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on November 13, 2007. MPEP 503.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the April 18, 2008 Notice of Abandonment is vacated. No petition fee has been or will be charged in connection with this matter.

The application file will be returned to Technology Center A.U. 1793 for consideration of the election filed on certificate of mailing date November 8, 2007 and re-submitted with the present petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.



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